

**35A-3-101. Title -- Employment assistance.**

- (1) This chapter shall be known as the "Employment Support Act."
- (2) A person eligible for employment assistance under Chapter 3 or 5 shall receive any assistance under the applicable chapter, including stabilization, assessment, training, or placement, through the department in accordance with Chapter 2, Part 2, Service Delivery.

Amended by Chapter 1, 1998 General Session

**35A-3-102. Definitions.**

Unless otherwise specified, as used in this chapter:

- (1) "Applicant" means a person who requests assistance under this chapter.
- (2) "Average monthly number of families" means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year.
- (3) "Cash assistance" means a monthly dollar amount of cash a client is eligible to receive under Section 35A-3-302.
- (4) "Child care services" means care of a child for a portion of the day that is less than 24 hours in a qualified setting, as defined by rule, by a responsible person who is not the child's parent or legal guardian.
- (5) "Date of enrollment" means the date on which the applicant was approved as eligible for cash assistance.
- (6) "Director" means the director of the division.
- (7) "Diversion" means a single payment of cash assistance under Section 35A-3-303 to a client who is eligible for but does not require extended cash assistance under Part 3, Family Employment Program.
- (8) "Division" means the Employment Development Division.
- (9) "Education or training" means:
  - (a) basic remedial education;
  - (b) adult education;
  - (c) high school education;
  - (d) education to obtain the equivalent of a high school diploma;
  - (e) education to learn English as a second language;
  - (f) applied technology training;
  - (g) employment skills training; or
  - (h) on-the-job training.
- (10) "Full-time education or training" means training on a full-time basis as defined by the educational institution attended by the parent client.
- (11) "General assistance" means financial assistance provided to a person who is not otherwise eligible for cash assistance under Part 3, Family Employment Program, because that person does not live in a family with a related dependent child.
- (12) "Parent client" means a person who enters into an employment plan with the division to qualify for cash assistance under Part 3, Family Employment Program.
- (13) "Plan" or "state plan" means the state plan submitted to the Secretary of the United States Department of Health and Human Services to receive funding from the United States through the Temporary Assistance for Needy Families Block Grant.

(14) "Single minor parent" means a person under 18 years of age who is not married and has a minor child in the person's care and custody.

Amended by Chapter 235, 2007 General Session

**35A-3-103. Division responsibilities.**

The division shall:

- (1) administer public assistance programs assigned by the Legislature and the governor;
- (2) determine eligibility in accordance with the requirements of this chapter for public assistance programs assigned to it by the Legislature or the governor;
- (3) cooperate with the federal government in the administration of public assistance programs;
- (4) administer the Utah state employment service in accordance with Section 35A-3-115;
- (5) provide for the compilation of necessary or desirable information, statistics, and reports;
- (6) perform other duties and functions required by law;
- (7) monitor the application of eligibility policy;
- (8) develop personnel training programs for more effective and efficient operation of all programs under the administration of the division;
- (9) provide refugee resettlement services;
- (10) provide child care assistance for children; and
- (11) provide services and support that enable clients to qualify for affordable housing in cooperation with:
  - (a) the Utah Housing Corporation;
  - (b) the Housing and Community Development Division; and
  - (c) local housing authorities.

Amended by Chapter 212, 2012 General Session

**35A-3-103.5. Employment first emphasis on the provision of services.**

- (1) As used in this section, "recipient" means an individual who:
  - (a) has a disability;
  - (b) suffers from a mental illness; or
  - (c) is undergoing treatment for a substance abuse problem.
- (2) When providing services to a recipient in the programs provided under this chapter, the department shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law and memorandums of understanding between the department and other state entities that provide services to a recipient, give priority to providing services that assist an eligible recipient in obtaining and retaining meaningful and gainful employment that enables the recipient to earn sufficient income to:
  - (a) purchase goods and services;
  - (b) establish self-sufficiency; and
  - (c) exercise economic control of the recipient's life.

- (3) The department shall develop a written plan to implement the policy described in Subsection (2) that includes:
- (a) assessing the strengths and needs of a recipient;
  - (b) customizing strength-based approaches to obtaining employment;
  - (c) expecting, encouraging, providing, and rewarding:
  - (i) integrated employment in the workplace at competitive wages and benefits;
- and
- (ii) self-employment;
  - (d) developing partnerships with potential employers;
  - (e) maximizing appropriate employment training opportunities;
  - (f) coordinating services with other government agencies and community resources;
  - (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and
  - (h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.
- (4) The department shall, on an annual basis:
- (a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);
  - (b) determine whether the goals for the previous year have been met; and
  - (c) modify the plan described in Subsection (3) as needed.

Amended by Chapter 305, 2012 General Session

**35A-3-104. Contracts for administration and provision of public assistance.**

The division, in consultation with the department, may contract with other public or private agencies to assist in the administration and provision of public assistance.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-105. Determination of eligibility and responsibility -- Information from State Tax Commission.**

(1) The division may have access to relevant information contained in the income tax returns of a client, applicant, or person who has a duty to support a client in determining:

- (a) eligibility for public assistance;
- (b) payment responsibilities for institutional care; or
- (c) any other administrative purpose consistent with this chapter.

(2) The information requested by the division shall be:

- (a) provided by the State Tax Commission on forms furnished by the division;
- and
- (b) treated as a private record under Title 63G, Chapter 2, Government Records Access and Management Act, by the division.

Amended by Chapter 382, 2008 General Session

**35A-3-106. Residency requirements.**

To be eligible for public assistance under this chapter, an applicant shall be living in Utah voluntarily with the intention of making this state the applicant's place of residence, and not for a temporary purpose.

Amended by Chapter 297, 2011 General Session

**35A-3-108. Assignment of support.**

(1) (a) The division shall obtain an assignment of support from each applicant or client regardless of whether the payment is court ordered.

(b) Upon the receipt of assistance, any right to receive support from another person passes to the state, even if the client has not executed and delivered an assignment to the division as required by Subsection (1)(a).

(c) The right to support described in Subsection (1)(b) includes a right to support in the applicant's or client's own behalf or in behalf of any family member for whom the applicant or client is applying for or receiving assistance.

(2) An assignment of support or a passing of rights under Subsection (1)(b) includes payments ordered, decreed, or adjudged by any court within this state, any other state, or territory of the United States and is not in lieu of, and does not supersede or alter, any other court order, decree, or judgment.

(3) When an assignment is executed or the right to support passes to the department under Subsection (1)(b), the applicant or client is eligible to regular monthly assistance and the support paid to the division is a refund.

(4) All sums refunded, except any amount which is required to be credited to the federal government, shall be deposited into the General Fund.

(5) On and after the date a family stops receiving cash assistance, an assignment of support under Subsection (1) does not apply to any support that accrued before the family received such assistance if the department has not collected the support by the date the family stops receiving cash assistance, if the assignment is executed on or after October 1, 1998.

(6) The department shall distribute arrearages to families in accordance with the Social Security Act, 42 U.S.C. Sec. 657.

(7) The total amount of child support assigned to the department and collected under this section may not exceed the total amount of cash assistance received by the recipient.

Amended by Chapter 297, 2011 General Session

**35A-3-109. Assistance provided to guardian or other caretaker -- Periodic review.**

(1) When it appears necessary or advisable, public assistance may be paid to the legal guardian of an applicant or client.

(2) The division may provide cash assistance under Part 3, Family Employment Program, on behalf of an eligible client, to another individual interested in or concerned with the welfare of the client only when:

(a) by reason of the client's physical or mental condition, the client is unable to

manage funds;

(b) when the provision of cash assistance directly to the client would be contrary to the client's welfare; or

(c) when the division is so directed by federal requirements.

(3) The division shall undertake or contract with other state agencies to make special efforts to protect the welfare of clients and improve their capacity for self-care. Periodic review of a client's condition is required. When conditions change, cash assistance that is provided to an individual other than the client shall be discontinued or, when advisable, a legal guardian shall be appointed, whichever action best serves the interests and welfare of the client.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-110. Third party obligation -- Interest.**

Whenever the division expends public assistance on behalf of a client for services or supplies, for which another person is obligated to reimburse the division, that other person shall make such reimbursement within 60 days of notification by the division. If reimbursement is not made within that period, and no extension of time is granted by the division, interest shall accrue on the unpaid balance at the rate of 8% per annum.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-111. Collection of overpayments.**

(1) The department is responsible for the recovery of overpayments required in Section 35A-3-603.

(2) Excess property liens required in the various programs not transferred to the federal government shall remain a condition of eligibility in public assistance programs.

(3) A client can appeal an initial department determination that there has been an overpayment under rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

**35A-3-112. Assistance not assignable -- Exemption from execution, garnishment, bankruptcy, or insolvency proceedings.**

Public assistance provided under this chapter is not assignable, at law or in equity, and none of the money paid or payable under this chapter is subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-113. Prohibition of charges or fees for representing applicants.**

A person may not make any charge or receive any fee for representing an applicant or client in any proceeding under this chapter, except criminal proceedings, or

with respect to any application, whether the fee or charge is to be paid by the applicant, client, or any other person, if that fee is in excess of an amount determined by the court or body before whom an applicant or client has been represented.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-115. Public Employment Offices -- Agreements with other authorities -- Federal system accepted -- Appropriation.**

(1) (a) The division shall establish and maintain free public employment offices in a manner and in places as may be necessary for the proper administration of this chapter and for the purposes of performing the functions as are within the purview of the Act of Congress entitled "An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes," approved June 6, 1933, 48 Stat. 113; U. S. Code, Title 29, Section 49 (c) as amended, hereinafter referred to as the "Wagner-Peyser Act."

(b) The division shall consult with the directors of economic service areas when determining the location of public employment offices.

(c) The division may locate a public employment office in connection with or as an integrated part of an employment center established under Section 35A-2-203.

(2) (a) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and 557, are accepted by this state.

(b) The department is designated and constitutes the agency of this state for the purposes of the act.

(3) (a) For the purpose of establishing and maintaining free public employment offices, and promoting the use of their facilities, the division may enter into agreements with the railroad retirement board, or any other agency of the United States, or of this or any other state, charged with the administration of any law whose purposes are reasonably related to the purposes of this chapter.

(b) As a part of an agreement entered into under Subsection (3)(a), the division may accept money, services, or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed.

Amended by Chapter 188, 2011 General Session

**35A-3-116. Refugee services fund -- Use of money -- Committee and director duties -- Restrictions.**

(1) There is created an expendable special revenue fund, known as the "Refugee Services Fund."

(2) The director shall administer the fund with input from the department and any advisory committee involved with the provision of refugee services within the department.

(3) (a) Money shall be deposited into the fund from legislative appropriations, federal grants, private foundations, and individual donors.

(b) The director shall encourage a refugee who receives services funded under Subsection (8) to be a donor to the fund when the refugee's financial situation improves sufficiently to make a donation.

(4) Except for money restricted to a specific use under federal law or by a donor, the director may not spend money from the fund without the input described in Subsection (2).

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, and all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) Money in the fund may not be used by the director for administrative expenses.

(7) If the department establishes a refugee services advisory committee referenced in Subsection (2), the committee may:

(a) advise the director on refugee services needs in the state and on relevant operational aspects of any grant or revenue collection program established under this part;

(b) recommend specific refugee projects to the director;

(c) recommend policies and procedures for administering the fund;

(d) make recommendations on grants made from the fund for refugee services activities authorized under this section;

(e) advise the director on the criteria by which grants from the fund shall be made;

(f) recommend the order approved projects should be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with federal or donor restrictions; and

(h) have joint responsibility to solicit public and private funding for the fund.

(8) The director may use fund money to:

(a) train an existing refugee organization to develop its capacity to operate professionally and effectively and to become an independent, viable organization; or

(b) provide grants to refugee organizations and other entities identified in Subsection (9) to assist them:

(i) with case management;

(ii) in meeting emergency housing needs for refugees;

(iii) in providing English language services;

(iv) in providing interpretive services;

(v) in finding and maintaining employment for refugees;

(vi) in collaborating with the state's public education system to improve the involvement of refugee parents in assimilating their children into public schools;

(vii) in meeting the health and mental health needs of refugees;

(viii) in providing or arranging for child care services; or

(ix) in administering refugee services.

(9) The director, with the input described in Subsection (2), may grant fund money for refugee services outlined in Subsection (8) through a request for proposal process to:

(a) local governments;

(b) nonprofit community, charitable, or neighborhood-based organizations or private for-profit organizations involved with providing or arranging for the provision of refugee services; or

(c) regional or statewide nonprofit organizations.

(10) (a) The director shall enter into a written agreement with each successful grant applicant.

(b) The agreement shall include specific terms for each grant consistent with the provisions of this section, including the structure, amount, and nature of the grant.

(11) The director shall monitor the activities of the recipients of grants issued from the fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the fund.

(12) The director shall require an entity that receives a grant under this section to provide periodic accounting of how the money was used.

(13) As part of the annual written report described in Section 35A-1-109, the director shall report the status of the fund, including programs and services funded by the fund.

Amended by Chapter 371, 2014 General Session

**35A-3-117. Continuation of refugee services.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to provide for the administration and coordination of services to refugees beyond the time period refugee assistance is provided or funded by the federal government, including the provision of:

- (a) services to address emergency needs;
- (b) English language training; and
- (c) services for victims of domestic violence.

(2) The director shall administer and coordinate services under this section:

(a) with input from the department and any office or advisory committee involved with the provision of refugee services within the department; and

(b) in accordance with any state and federal requirements related to the provision of services to refugees.

Enacted by Chapter 250, 2014 General Session

**35A-3-201. Definitions.**

As used in this part:

(1) "Child care" means the services referred to in Subsection 35A-3-102(4) provided for:

- (a) children through age 12; and
- (b) children with disabilities through age 18.

(2) "Child care provider association" means an association:

(a) that has functioned as a child care provider association in the state for at least three years; and

(b) is affiliated with a national child care provider association.

(3) "Committee" means the Child Care Advisory Committee created in Section 35A-3-205.

(4) "Director" means the director of the Office of Child Care.

(5) "Office" means the Office of Child Care created in Section 35A-3-202.



Amended by Chapter 13, 2003 General Session

**35A-3-202. Creation.**

(1) There is created within the Department of Workforce Services an Office of Child Care.

(2) The office shall be administered by a director who shall be appointed by the executive director and may be removed from that position at the will of the executive director.

Amended by Chapter 81, 2005 General Session

**35A-3-203. Functions and duties of office -- Annual report.**

The office shall:

(1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;

(2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;

(3) provide information:

(a) to employers for the development of options for child care in the work place; and

(b) for educating the public in obtaining quality child care;

(4) coordinate services for quality child care training and child care resource and referral core services;

(5) apply for, accept, or expend gifts or donations from public or private sources;

(6) provide administrative support services to the committee;

(7) work collaboratively with the following for the delivery of quality child care and early childhood programs, and school age programs throughout the state:

(a) the State Board of Education; and

(b) the Department of Health;

(8) research child care programs and public policy that will improve quality and accessibility and that will further the purposes of the office and child care, early childhood programs, and school age programs;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205; and

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah.

Amended by Chapter 371, 2014 General Session

**35A-3-204. Duties of director.**

The director shall:

(1) enforce rules made by the department regulating the use of services

provided by the office;

- (2) supervise office staff and prepare an annual work plan; and
- (3) apply for, accept, and expend gifts or donations from public or private sources to assist the office in fulfilling its statutory obligations.

Renumbered and Amended by Chapter 375, 1997 General Session

**35A-3-205. Creation of committee.**

- (1) There is created a Child Care Advisory Committee.
- (2) The committee shall counsel and advise the office in fulfilling its statutory obligations to include:
  - (a) a review of and recommendations on the office's annual budget;
  - (b) recommendations on how the office might best respond to child care needs throughout the state; and
  - (c) recommendations on the use of new money that comes into the office, including those for the Child Care Fund.
- (3) The committee is composed of the following members, with special attention given to insure diversity and representation from both urban and rural groups:
  - (a) one expert in early childhood development;
  - (b) one child care provider who operates a center;
  - (c) one child care provider who operates a family child care business;
  - (d) one parent who is representative of households receiving a child care subsidy from the office;
  - (e) one representative from the public at-large;
  - (f) one representative of the State Office of Education;
  - (g) one representative of the Department of Health;
  - (h) one representative of the Department of Human Services;
  - (i) two representatives from the corporate community, one who is a recent "Family Friendly" award winner and who received the award because of efforts in the child care arena;
  - (j) two representatives from the small business community;
  - (k) one representative from child care advocacy groups;
  - (l) one representative of children with disabilities;
  - (m) one representative from the state Head Start Association appointed by the association;
  - (n) one representative from each child care provider association; and
  - (o) one representative of a child care resource and referral center appointed by the organization representing child care resource and referral agencies.
- (4) (a) The executive director shall appoint the members designated in Subsections (3)(a) through (e) and (j) through (n).
- (b) The head of the respective departments shall appoint the members referred to in Subsections (3)(f) through (i).
- (c) Each child care provider association shall appoint its respective member referred to in Subsection (3)(o).
- (5) (a) Except as required by Subsection (5)(b), as terms of current committee members expire, the appointing authority shall appoint each new member or

reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, including missing three consecutive meetings where the member has not been excused by the chair prior to or during the meeting, the replacement shall be appointed for the unexpired term.

(7) A majority of the members constitutes a quorum for the transaction of business.

(8) (a) The executive director shall select a chair from the committee membership.

(b) A chair may serve no more than two one-year terms as chair.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 212, 2012 General Session

**35A-3-206. Child Care Fund -- Use of money -- Committee and director duties -- Restrictions.**

(1) There is created an expendable special revenue fund known as the "Child Care Fund."

(2) The director of the office shall administer the fund under the direction of the committee.

(3) (a) The office may form nonprofit corporations or foundations controlled by the director of the office and the committee to aid and assist the office in attaining its charitable, research, and educational objectives.

(b) The nonprofit corporations or foundations may receive and administer Legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

(c) Money collected by the nonprofit corporation or foundation may be deposited in the Child Care Fund.

(d) A nonprofit foundation controlled by the director of the office and the committee shall submit to the Division of Finance, within 60 days after the close of the foundation's fiscal year, a financial report summarizing the foundation's financial position and results of operations of the most recent fiscal year.

(4) (a) There shall be deposited into the fund money from numerous sources, including, grants, private foundations, and individual donors.

(b) The fund shall be used to accept money designated for child care initiatives improving the quality, affordability, or accessibility of child care.

(5) The money in the fund that is not restricted to a specific use under federal law or by donors may not be expended without approval of the committee.

(6) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

(7) The money in the fund may not be used for administrative expenses of the office normally provided for by legislative appropriation.

(8) The committee shall:

(a) advise the director of the office on child care needs in the state and on relevant operational aspects of any grant, loan, or revenue collection program established under this part;

(b) recommend specific child care projects to the director of the office;

(c) recommend policy and procedures for administering the fund;

(d) make recommendations on grants, loans, or contracts from the fund for any of the child care activities authorized under this part;

(e) establish the criteria by which loans and grants will be made;

(f) determine the order in which approved child care projects will be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with the procedures, conditions, and restrictions placed upon the money by the donors; and

(h) have joint responsibility with the office to solicit public and private funding for the fund.

(9) Fund money shall be used for any of the following activities:

(a) training of child care providers;

(b) scholarships and grants for child care providers' professional development;

(c) child care public awareness and consumer education services;

(d) child care provider recruitment;

(e) Office of Child Care sponsored activities;

(f) matching money for obtaining grants; or

(g) other activities that will assist in the improvement of child care quality, affordability, or accessibility.

(10) The director of the office, with the consent of the committee and the executive director, may grant, lend, or contract fund money for child care purposes to:

(a) local governments;

(b) nonprofit community, charitable, or neighborhood-based organizations;

(c) regional or statewide nonprofit organizations; or

(d) child care providers.

(11) Preference may be given but awards may not be limited to applicants for fund money that demonstrate any of the following:

(a) programmatic or financial need;

(b) diversity of clientele or geographic location; and

(c) coordination with or enhancement of existing services.

(12) The executive director or the executive director's designee shall monitor the activities of the recipients of grants, loans, or contracts issued from the fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the fund.

(13) The entities receiving grants, loans, or contracts shall provide the director of the office with an annual accounting of how the money they received from the fund has

been spent.

(14) (a) The director of the office shall make an annual report to the committee regarding the status of the fund and the programs and services funded by the fund.

(b) The report shall be included in the annual written report described in Section 35A-1-109.

Amended by Chapter 371, 2014 General Session

**35A-3-207. Community-based prevention programs.**

(1) As used in this section:

(a) "political subdivision" means a town, city, county, or school district;

(b) "qualified sponsor" means a:

(i) political subdivision;

(ii) community nonprofit, religious, or charitable organization;

(iii) regional or statewide nonprofit organization; or

(iv) private for profit or nonprofit child care organization with experience and expertise in operating community-based prevention programs described in Subsection (2) and that are licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

(2) Within appropriations from the Legislature, the department may provide grants to qualified sponsors for community-based prevention programs that:

(a) support parents in their primary care giving role to children;

(b) provide positive alternatives to idleness for school-aged children when school is not in session; and

(c) support other community-based prevention programs.

(3) In awarding grants under this section, the department shall:

(a) request proposals for funding from potential qualified sponsors; and

(b) comply with the requirements of Subsection (4).

(4) In awarding these grants, the department shall ensure that each dollar of funds from political subdivisions or private funds is matched for each dollar received from the department. The value of in-kind contributions such as materials, supplies, paid labor, volunteer labor, and the incremental increase in building maintenance and operation expenses incurred attributable to the prevention program may be considered in meeting this match requirement.

(5) In awarding a grant under this section, the department shall consider:

(a) the cash portion of the proposed match in relation to the financial resources of the qualified sponsor; and

(b) the extent to which the qualified sponsor has:

(i) consulted and collaborated with parents of children who are likely to participate, local parent-teacher organizations, and other parent organizations;

(ii) identified at risk factors that will be ameliorated through the proposed prevention program;

(iii) identified protective factors and developmental assets that will be supported and strengthened through the proposed prevention program; and

(iv) the financial support of parents and the organizations specified in Subsection (5)(b)(i).

(6) At least 50 percent of the grants awarded under this section shall be awarded to organizations described in Subsection (1)(b)(iv).

(7) No federal funds shall be used as matching funds under this act.

Amended by Chapter 167, 2013 General Session

Amended by Chapter 413, 2013 General Session

**35A-3-301. Purpose -- Legislative intent.**

(1) The Legislature finds that:

(a) it is in the public interest to fundamentally alter the state's cash assistance program for needy families with children;

(b) employment improves the quality of life for parents, children, and individuals by increasing family income, developing job skills, and improving self-esteem; and

(c) the purpose of the cash assistance provided under this part is to assist a parent client to obtain employment that is sufficient to sustain a family, to ensure the dignity of those receiving assistance, and to strengthen families.

(2) The Legislature recognizes that even with assistance, some clients may be unable to attain complete self-sufficiency.

Enacted by Chapter 174, 1997 General Session

**35A-3-302. Eligibility requirements.**

(1) The program of cash assistance provided under this part is known as the Family Employment Program.

(2) (a) The division shall submit a state plan to the Secretary of the United States Department of Health and Human Services to obtain federal funding under the Temporary Assistance for Needy Families Block Grant.

(b) The division shall make the plan consistent with this part and federal law.

(c) If a discrepancy arises between a provision of the state plan and this part, this part supersedes the provision in the state plan.

(3) The services and supports under this part are for both one-parent and two-parent families.

(4) To be eligible for cash assistance under this part, a family shall:

(a) have at least one minor dependent child; or

(b) have a parent who is in the third trimester of a pregnancy.

(5) The department shall make rules for eligibility and the amount of cash assistance a family is eligible to receive under this part based on:

(a) family size;

(b) family income;

(c) income disregards;

(d) other relevant factors; and

(e) if the applicant has met the eligibility requirements under Subsections (5)(a) through (d), the assessment and other requirements described in Sections 35A-3-304 and 35A-3-304.5.

(6) The division shall disregard money on deposit in an Individual Development Account established under Section 35A-3-312 in determining eligibility.

(7) The department shall provide for an appeal of a determination of eligibility in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(8) (a) The department shall make a report to either the Legislature's Executive Appropriations Committee or the Social Services Appropriations Subcommittee on any proposed rule change made under Subsection (5) that would modify the eligibility requirements or the amount of cash assistance a family would be eligible to receive.

(b) The department shall submit the report prior to implementing the proposed rule change and the report shall include:

(i) a description of the department's current practice or policy that it is proposing to change;

(ii) an explanation of why the department is proposing the change;

(iii) the effect of an increase or decrease in cash benefits on families; and

(iv) the fiscal impact of the proposed change.

(c) The department may use the Notice of Proposed Rule Amendment form filed with the Division of Administrative Rules as its report if the notice contains the information required under Subsection (8)(b).

(9) The department shall make rules to ensure that:

(a) a recipient of assistance from the Family Employment Program:

(i) has adequate access to the assistance;

(ii) has the ability to use and withdraw assistance with minimal fees or surcharges, including the opportunity to obtain assistance with no fees or surcharges;

(iii) is provided information regarding fees and surcharges that may apply to assistance accessed through an electronic fund transaction; and

(iv) is provided information explaining the restrictions on accessing assistance described in Subsection (10); and

(b) information regarding fees and surcharges that may apply when accessing assistance from the Family Employment Program through an electronic fund transaction is available to the public.

(10) An individual receiving assistance under this section may not access the assistance through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:

(a) exclusively or primarily sells intoxicating liquor;

(b) allows gambling or gaming; or

(c) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(11) An establishment in the state may not allow an individual to access the assistance described in this section on the establishment's premises through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, if the establishment:

(a) exclusively or primarily sells intoxicating liquor;

(b) allows gambling or gaming; or

(c) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(12) In accordance with federal requirements, the department shall make rules to prevent individuals from accessing assistance in a manner prohibited by Subsections (10) and (11), which rules may include enforcement provisions that impose sanctions

that temporarily or permanently disqualify an individual from receiving assistance.

(13) When exercising rulemaking authority under this part, the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 112, 2013 General Session

**35A-3-303. Diversion.**

(1) (a) When an applicant applies for cash assistance, the division shall assess whether the applicant should be diverted from receiving extended cash assistance. In completing the assessment, the division shall consider the following:

- (i) the applicant's employment history;
- (ii) the likelihood of the applicant obtaining immediate full-time employment;
- (iii) the applicant's general prospect for obtaining full-time employment;
- (iv) the applicant's need for cash assistance to pay for housing or substantial and unforeseen expenses or work-related expenses;

(v) housing stability; and

(vi) the adequacy of the applicant's child care arrangements, if applicable.

(b) A finding by the division with regard to eligibility for diversion shall primarily consider whether, but for the diversion assistance received under this section, the applicant would receive extended cash assistance.

(2) If the division determines that the applicant is eligible for diversion assistance and the applicant agrees with this determination, the division shall provide a single payment of cash assistance up to three times the maximum monthly amount of cash assistance that the applicant would be otherwise qualified to receive based on household size.

(3) When diversion is not appropriate, an applicant may receive cash assistance as otherwise provided in this part.

Enacted by Chapter 174, 1997 General Session

**35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

(1) (a) Within 20 business days of the date of enrollment, a parent client shall:

- (i) be assigned an employment counselor; and
- (ii) complete an assessment provided by the division regarding the parent client's:

(A) family circumstances;

(B) education;

(C) work history;

(D) skills;

(E) ability to become self-sufficient; and

(F) likelihood of a substance use disorder involving the misuse of a controlled substance.

(b) The assessment provided under Subsection (1)(a)(ii) shall include:

- (i) a survey to be completed by the parent client with the assistance of the



division; and

(ii) a written questionnaire to be completed by the parent client designed to accurately determine the likelihood of the parent client having a substance use disorder involving the misuse of a controlled substance.

(c) In addition to the other requirements of this part, if the results of the written questionnaire taken by a parent client indicate a reasonable likelihood that the parent client has a substance use disorder involving the misuse of a controlled substance, the parent client may only receive cash assistance provided under this part in accordance with the additional requirements of Section 35A-3-304.5.

(2) (a) Within 15 business days of a parent client completing an assessment, the division and the parent client shall enter into an employment plan.

(b) The employment plan shall have a target date for entry into employment.

(c) The division shall provide a copy of the employment plan to the parent client.

(d) As to the parent client, the plan may include:

(i) job searching requirements;

(ii) if the parent client does not have a high school diploma, participation in an educational program to obtain a high school diploma, or its equivalent;

(iii) education or training necessary to obtain employment;

(iv) a combination of work and education or training;

(v) assisting the Office of Recovery Services in good faith to:

(A) establish the paternity of a minor child; and

(B) establish or enforce a child support order.

(e) If the parent client tests positive for the unlawful use of a controlled substance after taking a drug test under Section 35A-3-304.5, the employment plan shall include an agreement by the parent client to participate in treatment for a substance use disorder and meet the other requirements of Section 35A-3-304.5.

(f) As to the division, the plan may include:

(i) providing cash and other types of public and employment assistance, including child care;

(ii) assisting the parent client to obtain education or training necessary for employment;

(iii) assisting the parent client to set up and follow a household budget; and

(iv) assisting the parent client to obtain employment.

(g) The division may amend the employment plan to reflect new information or changed circumstances.

(h) If immediate employment is an activity contained in the employment plan the parent client shall:

(i) promptly commence a search for a specified number of hours each week for employment; and

(ii) regularly submit a report to the division on:

(A) how time was spent in search for a job;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the division.

(i) (i) If full-time education or training to secure employment is an activity

contained in an employment plan, the parent client shall promptly undertake a full-time education or training program.

(ii) The employment plan may describe courses, education or training goals, and classroom hours.

(j) (i) As a condition of receiving cash assistance under this part, a parent client shall agree to make a good faith effort to comply with the employment plan.

(ii) If a parent client consistently fails to show good faith in complying with the employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of the cash assistance services provided under this part.

(iii) The division shall establish a process to reconcile disputes between a client and the division as to whether:

(A) the parent client has made a good faith effort to comply with the employment plan; or

(B) the division has complied with the employment plan.

(3) (a) Except as provided in Subsection (3)(b), a parent client's participation in education or training beyond that required to obtain a high school diploma or its equivalent is limited to the lesser of:

(i) 24 months; or

(ii) the completion of the education and training requirements of the employment plan.

(b) A parent client may participate in education or training for up to six months beyond the 24-month limit of Subsection (3)(a)(i) if:

(i) the parent client is employed for 80 or more hours a month; and

(ii) the extension is for good cause shown and approved by the director.

(c) A parent client who receives an extension under Subsection (3)(b) remains subject to Subsection (4).

(4) (a) A parent client with a high school diploma or equivalent who has received 24 months of education or training shall participate in full-time work activities.

(b) The 24 months need not be continuous and the department may define "full-time work activities" by rule.

(5) As a condition for receiving cash assistance on behalf of a minor child under this part, the minor child shall be:

(a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and 53A-11-101.7; or

(b) exempt from school attendance under Section 53A-11-102.

(6) This section does not apply to a person who has received diversion assistance under Section 35A-3-303.

(7) (a) The division shall recruit and train volunteers to serve as mentors for parent clients.

(b) A mentor may advocate on behalf of a parent client and help a parent client:

(i) develop life skills;

(ii) implement an employment plan; or

(iii) obtain services and supports from:

(A) the volunteer mentor;

(B) the division; or

(C) civic organizations.

Amended by Chapter 354, 2012 General Session

**35A-3-304.5. Drug testing requirements.**

(1) If the results of a questionnaire described in Subsection 35A-3-304(1) indicate a reasonable likelihood that a parent client may have a substance use disorder involving the misuse of a controlled substance, the division shall require the parent client to take a drug test at the division's expense in order to continue to receive cash assistance under this part.

(2) If a parent client refuses to take a drug test required under Subsection (1), the department shall terminate cash assistance under this part and the parent client may not reapply for cash assistance under this part for:

- (a) 90 days after a first refusal to take a drug test within one year; or
- (b) one year after a second refusal to take a drug test within one year.

(3) A drug test given under this section shall be administered with due regard to the privacy and dignity of the person being tested.

(4) Before taking a drug test under this section, a parent client may advise the person administering the test regarding any prescription or over-the-counter medication the parent client is taking.

(5) The result of a drug test given under this section is a private record in accordance with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) If a parent client tests negative for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the parent client remains eligible for cash assistance, subject to the other eligibility requirements of this part.

(7) If a parent client tests positive for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the parent client:

(a) shall be given a list of approved substance use disorder treatment providers that are available in the area in which the individual resides; and

(b) may continue to receive benefits if the parent client enters into and follows the requirements of an employment plan, including:

(i) receiving treatment, at the division's expense, from an approved substance use disorder treatment provider for at least 60 days;

(ii) testing negative for the unlawful use of a controlled substance:

(A) in each subsequent drug test required by division rule during treatment; and

(B) in an additional drug test given at the conclusion of treatment; and

(iii) meeting the other requirements of receiving cash assistance under this part.

(8) If a parent client declines to enter into an employment plan required by Subsection (7), or if the parent client enters into, but fails to meet, a requirement of an employment plan under Subsection (7), including if the parent client refuses to take a drug test required by the employment plan or tests positive for the unlawful use of a controlled substance in a drug test required by the employment plan, the department shall terminate cash assistance under this part and the parent client may not reapply for cash assistance under this part for:

- (a) except as provided in Subsection (8)(b), 90 days after the day on which the

department determines, under this Subsection (8), that the parent client is no longer eligible for cash assistance; or

(b) one year after the day on which the department determines, under this Subsection (8), that the parent client is no longer eligible for cash assistance, if the department has previously determined on at least one other occasion in the past year that the parent client is no longer eligible for cash assistance under this Subsection (8).

Enacted by Chapter 354, 2012 General Session

**35A-3-306. Limits on eligibility.**

(1) For purposes of this section, "battered or subjected to extreme cruelty" is defined in Section 103(a)(1) of P.L. 104-193 or 42 U.S.C. Sec. 608(a)(7)(C)(iii), The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) Except as provided in Subsection (4), the division may not provide cash assistance to a family who has received cash assistance for 36 months or more.

(3) (a) The division shall count toward the 36-month time limit in Subsection (2) any time after January 1, 1997, during which:

(i) the parent client received cash assistance in this or another state; and  
(ii) the parent client is disqualified from receiving cash assistance and the parent client's income and assets are counted in determining eligibility for the family in this or another state.

(b) (i) The division may not count toward the 36-month time limit in Subsection (2) or the 24-month time period in Subsection (4) any time during which:

(A) a person 18 years of age or older received cash assistance as a minor child and not as a parent; or

(B) a parent client received transitional support cash assistance.

(ii) Transitional support cash assistance:

(A) may be paid if the department determines the assistance is necessary to stabilize employment and prevent recidivism;

(B) is only available to a parent client who was previously receiving cash assistance under the Family Employment Program but who becomes ineligible due to earned or unearned income; and

(C) may be granted for a maximum of three months provided the parent client is employed an average of 30 hours per week during the transitional period.

(4) (a) For up to 24 months, the division may provide cash assistance to a family beyond the 36-month time limit in Subsection (2) if during the previous two months, the parent client was employed for no less than 20 hours per week.

(b) For up to 20% of the average monthly number of families who receive cash assistance under this part, the division may provide cash assistance to a family beyond the 36-month time limit in Subsection (2):

(i) by reason of a hardship; or  
(ii) if the family includes an individual who has been battered or subjected to extreme cruelty.

(c) For up to 20% of the average monthly number of families who receive cash assistance under this part, the division may provide cash assistance to a family beyond the additional 24-month time period in Subsection (4)(a):

- (i) by reason of a hardship; or
- (ii) if the family includes an individual who has been battered or subjected to extreme cruelty.

(d) Except as provided in Subsections (4)(b) and (c), the division may not provide cash assistance to a family who has received 60 months of cash assistance after October 1, 1996.

Amended by Chapter 51, 2007 General Session

**35A-3-307. Cash assistance to a single minor parent.**

(1) The division may provide cash assistance to a single minor parent in accordance with this section.

(2) A single minor parent who receives cash assistance under this part shall:

- (a) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the single minor parent, except as provided in Subsection (3);
- (b) participate in education for parenting and life skills;
- (c) participate in infant and child wellness programs operated by the Department of Health; and

- (d) for not less than 20 hours per week:

- (i) attend high school or an alternative to high school, if the single minor parent does not have a high school diploma;

- (ii) participate in education or training; or

- (iii) participate in a combination of employment and education or training.

(3) (a) If the division determines that the requirements of Subsection (2)(a) are not appropriate for a single minor parent, the division may assist the single minor parent to obtain suitable living arrangements, including an adult-supervised living arrangement.

(b) As a condition of receiving cash assistance, a single minor parent who is exempt from the requirements of Subsection (2)(a) shall reside in a living arrangement that is approved by the division.

(c) The approval by the division of a living arrangement under Subsection (3)(b):

- (i) is a means of safeguarding the use of state and federal funds; and

- (ii) is not a certification or guarantee of the safety, quality, or condition of the living arrangements of the single minor parent.

(4) (a) If a single minor parent resides with a parent, the division shall include the income of the parent of the single minor parent in determining the single minor parent's eligibility for services and supports under this part.

(b) If a single minor parent receives services and supports under this chapter but does not reside with a parent, the division shall seek an order under Title 78B, Chapter 12, Utah Child Support Act, requiring the parent of the single minor parent to financially support the single minor parent.

(5) The requirements of this section shall be included in a single minor parent's employment plan under Section 35A-3-304.

Amended by Chapter 296, 2010 General Session

**35A-3-308. Adoption services -- Printed information -- Supports provided.**

(1) The division may provide assistance under this section to a client who is pregnant and is not receiving cash assistance no sooner than the beginning of the third trimester of pregnancy.

(2) For pregnant clients, the division shall:

(a) refer the client for appropriate prenatal medical care, including maternal health services provided under Title 26, Chapter 10, Family Health Services;

(b) inform the client of free counseling about adoption from licensed child placement agencies and licensed attorneys; and

(c) offer the client the adoption information packet described in Subsection (3).

(3) The department shall publish an adoption information packet that:

(a) is easy to understand;

(b) contains geographically indexed materials on the public and private organizations that provide adoption assistance;

(c) lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(d) explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(e) describes the services and supports available to the client under this section.

(4) (a) A client remains eligible for assistance under this section, even though the client relinquishes a child for adoption, provided that the adoption is in accordance with Sections 78B-6-120 through 78B-6-122.

(b) The assistance provided under this section may include:

(i) reimbursement for expenses associated with care and confinement during pregnancy as provided for in Subsection (5); and

(ii) for a maximum of 12 months from the date of relinquishment, coordination of services to assist the client in:

(A) receiving appropriate educational and occupational assessment and planning;

(B) enrolling in appropriate education or training programs, including high school completion and adult education programs;

(C) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(D) finding suitable housing;

(E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act, if the client is otherwise eligible; and

(F) receiving counseling and other mental health services.

(5) (a) Except as provided in Subsection (5)(b), a client is eligible to receive an amount equal to the maximum monthly amount of cash assistance paid to one person for up to 12 consecutive months from the date of relinquishment.

(b) If a client is otherwise eligible to receive cash assistance under this part, the client is eligible to receive an amount equal to the increase in cash assistance the client would have received but for the relinquishment for up to 12 consecutive months from the date of relinquishment.

(6) (a) To be eligible for assistance under this section, a client shall:

(i) with the cooperation of the division, develop and implement an employment

plan containing goals for achieving self-sufficiency and describing the action the client will take concerning education and training that will result in full-time employment;

(ii) if the client does not have a high school diploma, enroll in high school or an alternative to high school and demonstrate progress toward graduation; and

(iii) make a good faith effort to meet the goals of the employment plan as provided in Section 35A-3-304.

(b) Cash assistance provided to a client before the client relinquishes a child for adoption is part of the state plan.

(c) Assistance provided under Subsection (5):

(i) shall be provided for with state funds; and

(ii) may not be tolled when determining subsequent eligibility for cash assistance under this chapter.

(d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided under the state plan.

(e) The division shall monitor a client's compliance with this section.

(f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the state plan.

Amended by Chapter 3, 2008 General Session

**35A-3-309. Information regarding home ownership.**

(1) The division shall provide information and service coordination to assist a client to obtain affordable housing.

(2) The information and services may include:

(a) information from the Utah Housing Corporation and the Housing and Community Development Division regarding special housing programs, including programs for first-time home buyers and persons with low and moderate incomes and the eligibility requirements for those programs;

(b) referrals to programs operated by volunteers from the real estate industry that assist clients in obtaining affordable housing, including information on home ownership, down payments, closing costs, and credit requirements; and

(c) referrals to housing programs operated by municipalities, counties, local housing authorities, and nonprofit housing organizations that assist individuals to obtain affordable housing, including first-time home ownership.

Amended by Chapter 212, 2012 General Session

**35A-3-310. Child care services.**

(1) A parent client may receive assistance for child care under this part for a minor child in the care and custody of the parent client, unless the other parent in a two-parent family:

(a) is capable of caring for the family's child;

(b) is not employed; and

(c) has not entered into an employment plan with the division.

(2) The division shall encourage a parent client to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(3) Within appropriations from the Legislature and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing eligibility for child care services for a minor child in the care and custody of a parent who does not receive cash assistance under this part.

Amended by Chapter 382, 2008 General Session

**35A-3-310.5. Child care providers -- Criminal background checks -- Payment of costs -- Prohibitions -- Department rules.**

- (1) This section applies to a child care provider who:
  - (a) is selected by an applicant for, or a recipient of, a child care assistance payment;
  - (b) is not required to undergo a criminal background check with the Department of Health, Bureau of Child Care Licensing;
  - (c) is not a license exempt child care center or program; and
  - (d) is an eligible child care provider under department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) (a) Each child care provider identified under Subsection (1) shall submit to the department the name and other identifying information, which shall include a set of fingerprints, of:
  - (i) existing, new, and proposed providers of child care; and
  - (ii) individuals who are at least 18 years of age and reside in the premises where the child care is provided.
- (b) The department may waive the fingerprint requirement under Subsection (2)(a) for an individual who has:
  - (i) resided in Utah for five years prior to the required submission; or
  - (ii) (A) previously submitted a set of fingerprints under this section for a national criminal history record check; and
  - (B) resided in Utah continuously since submitting the fingerprints.
- (c) The Utah Division of Criminal Investigation and Technical Services shall process and conduct background checks on all individuals as requested by the department, including submitting the fingerprints to the U.S. Federal Bureau of Investigation for a national criminal history background check of the individual.
- (d) If the department waives the fingerprint requirement under Subsection (2)(b), the Utah Division of Criminal Investigation and Technical Services may allow the department or its representative access to the division's data base to determine whether the individual has been convicted of a crime.
- (e) The child care provider shall pay the cost of the history background check provided under Subsection (2)(c).
- (3) (a) Each child care provider identified under Subsection (1) shall submit to the department the name and other identifying information of an individual, age 12 through 17, who resides in the premises where the child care is provided.
- (b) The identifying information referred to in Subsection (3)(a) does not include fingerprints.
- (c) The department or its representative shall access juvenile court records to determine whether an individual described in Subsection (2) or (3)(a) has been



adjudicated in juvenile court of committing an act which, if committed by an adult, would be a felony or misdemeanor if:

(i) the individual described in Subsection (2) is under the age of 28; or

(ii) the individual described in Subsection (2):

(A) is over the age of 28; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(4) Except as provided in Subsection (5), a child care provider under this section may not permit an individual who has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or if Subsection (3)(b) applies, an individual who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor to:

(a) provide subsidized child care; or

(b) reside at the premises where subsidized child care is provided.

(5) (a) The department may make a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of Subsection (4):

(i) a specific misdemeanor;

(ii) a specific act adjudicated in juvenile court, which if committed by an adult would be a misdemeanor; and

(iii) background checks of individuals other than the provider who are residing at the premises where subsidized child care is provided if that child care is provided in the child's home.

(b) In accordance with criteria established by rule, the executive director or the director's designee may consider and exempt individual cases, not otherwise exempt under Subsection (5)(a), from the restrictions of Subsection (4).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish by rule:

(a) whether a child care subsidy payment should be made prior to the completion of a background check, particularly in the case of a delay in making or completing the background check; and

(b) if, and how often, a child care provider shall resubmit the information required under Subsections (2) and (3).

Amended by Chapter 297, 2011 General Session

**35A-3-311. Cash assistance to noncitizen legal residents and drug dependent persons.**

(1) The division may provide cash assistance to a legal resident who is not a citizen of the United States using funds appropriated from the general fund if barred under federal law from using federal funds.

(2) (a) The State exercises the opt out provision in Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

(b) Consistent with Subsection (2)(a), the division may provide cash assistance and SNAP benefits to a person who has been convicted of a felony involving a

controlled substance, as defined in Section 58-37-2.

(c) As a condition for receiving cash assistance under this part, a drug dependant person, as defined in Section 58-37-2, shall:

- (i) receive available treatment for the dependency; and
- (ii) make progress toward overcoming the dependency.

(d) The department may only refer a client who is a drug dependent person to a treatment provider that has achieved an objective level of success, as defined by department rule, in treating drug dependency.

Amended by Chapter 41, 2012 General Session

**35A-3-312. Individual development accounts.**

(1) As used in this section:

(a) "Individual development account" means a trust account funded through periodic contributions by a client and matched by or through a not-for-profit organization organized under Section 501(c)(3), Internal Revenue Code.

(b) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence, including settlement and closing costs.

(c) "Qualified businesses capitalization expenses" means expenditures for capital, plant, equipment, working capital, and inventory.

(2) An individual development account may be established by or on behalf of a client to enable a client to accumulate funds for the following purposes:

(a) postsecondary educational expenses after leaving cash assistance, including tuition, fees, books, supplies, and transportation costs, if paid from the individual development account directly to an educational institution that the parent client is attending as part of an employment plan;

(b) qualified acquisition costs associated with a first-time home purchase if paid from the individual development account directly to a person to whom the amount is due;

(c) amounts paid from an individual development account directly to a business capitalization account that is established in a federally insured financial institution and used solely for qualified business capitalization expenses; or

(d) the purchase of assistive technologies, vehicle modifications, or home improvements that will allow a client with a disability to participate in work-related activities.

(3) A client may only deposit earned income and funds received from a not-for-profit organization into an individual development account.

Amended by Chapter 39, 2009 General Session

**35A-3-313. Performance goals.**

(1) As used in this section:

(a) "Performance goals" means a target level of performance or an expected level of performance against which actual performance is compared.

(b) "Performance indicators" means actual performance information regarding a program or activity.

(c) "Performance monitoring system" means a process to regularly collect and analyze performance information including performance indicators and performance goals.

(2) (a) The department shall establish a performance monitoring system for cash assistance provided under this part.

(b) The department shall establish the performance indicators and performance goals that will be used in the performance monitoring system for cash assistance under this part.

(c) (i) The department shall include in the annual written report described in Section 35A-1-109, a description of the difference between actual performance and performance goals for the second, third, and fourth quarters of the prior fiscal year and the first quarter of the current fiscal year.

(ii) (A) The legislative fiscal analyst or the analyst's designee shall convey the information described in Subsection (2)(c)(i) to the appropriation subcommittee that has oversight responsibilities for the Department of Workforce Services during the General Session that follows the submission of the report.

(B) The subcommittee may consider the information in its deliberations regarding the budget for services and supports under this chapter.

Amended by Chapter 371, 2014 General Session

### **35A-3-401. General Assistance.**

(1) (a) General Assistance may be provided to individuals who are not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income, and who are unemployable according to standards established by the department.

(b) (i) General Assistance may be provided by payment in cash or in kind.

(ii) The office may provide an amount less than the existing payment level for an otherwise similarly situated client of cash assistance under Part 3, Family Employment Program.

(c) The office shall establish asset limitations for General Assistance clients.

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income program, if the applicant agrees to reimburse the division for assistance advanced while awaiting the determination of eligibility by the Social Security Administration.

(ii) General Assistance payments may not be made to a current client of cash assistance or Supplemental Security Income.

(e) (i) General Assistance may be used for the reasonable cost of burial for a client, if heirs or relatives are not financially able to assume this expense.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section 53B-17-301 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The division may cooperate with any governmental unit or agency, or any private nonprofit agency in establishing work projects to provide employment for employable persons.

Amended by Chapter 29, 2004 General Session

**35A-3-402. Calculation of General Assistance Grants.**

Grants for General Assistance made pursuant to Section 35A-3-401, to the extent that those payments are made on an ongoing basis for persons who are unemployable, shall be:

- (1) within amounts appropriated by the Legislature; and
- (2) calculated in a manner analogous to that provided in Section 35A-3-302.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-501. Title.**

This part is known as the "Social Capital Formation Act."

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-502. Definitions.**

As used in this part:

(1) "Civic organization" includes community service clubs and organizations, charitable health care and service organizations, fraternal organizations, labor unions, minority and ethnic organizations, commercial and industrial organizations, commerce and business clubs, private nonprofit organizations, private nonprofit corporations that provide funding to community service organizations, organizations that advocate or provide for the needs of persons with low incomes, religious organizations, and organizations that foster strong neighborhoods and communities.

(2) "Diversion payment" means a lump sum cash payment provided to a client in lieu of regular monthly cash assistance.

(3) "Performance monitoring system" means a process to regularly collect and analyze performance information, including performance indicators and performance goals.

(a) "Performance goals" means a target level of performance or an expected level of performance against which actual performance is measured.

(b) "Performance indicators" means actual performance information regarding a program or activity.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-503. Legislative intent.**

(1) The Legislature finds that public policy should promote and encourage a strong civic sector. Civic organizations have an important role that cannot be adequately addressed through either private or public sector action. Important public values such as the condition of our neighborhoods, the character of our children, and the renewal of our cities directly depend on the strength of families, neighborhoods, and grassroots community organizations, as well as the vitality of private and religious institutions that care for those in need. Civic organizations transmit values between

generations, encourage cooperation between citizens, and ensure that our communities are livable and nurturing environments. The value provided to the state by civic organizations is called social capital.

(2) The purpose of this part is to promote the availability of social capital. Using social capital, clients of and applicants for services under this chapter may receive a wide array of services and supports that cannot be provided by state government alone. Social capital links all parts of our society together by creating opportunities for service and giving. It facilitates trust and cooperation and enhances investments in physical and human capital.

(3) In enacting this part, the Legislature recognizes the constitutional limits of state government to sustain civic institutions that provide social capital. While state government has always depended on these institutions, it does not create them nor can it replace them. This part recognizes that state government shall respect, recognize, and, wherever possible, constitutionally encourage strong civic institutions that sustain a sense of community and humanize our lives.

Amended by Chapter 297, 2011 General Session

**35A-3-504. Relationship of civic and state services.**

(1) (a) Services and supports provided by a civic organization under this part are in addition to, and not in lieu of, any service or support provided by the division to a client.

(b) Receipt of services from a civic organization may not diminish a person's eligibility for services or supports from the division.

(2) A person is under no obligation to receive services from a civic organization.

(3) A civic organization is under no obligation to provide services to a person, except as provided in a contract between the organization and the division pursuant to Section 35A-3-507.

Amended by Chapter 1, 1998 General Session

**35A-3-505. Application -- Referral to civic organizations.**

(1) The division shall, in compliance with Section 35A-3-504, assess whether an applicant would be receptive to and benefit by services from a civic organization. If so, the division may inform the applicant of the availability of those services and supports.

(2) (a) If an applicant chooses to receive those services and supports from a civic organization, the division shall facilitate the applicant's referral to one or more appropriate civic organizations.

(b) If an applicant chooses not to receive the services and supports of a civic organization or requests services and supports available under this chapter in addition to the services and supports of a civic organization, the division shall process the application as provided under this chapter.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-506. Diversion payment -- Referral to civic organizations.**

When a client receives a diversion payment under Section 35A-3-303, the division shall assess whether the client would benefit from services and supports from a civic organization. If so, the division may inform the client of the services and supports that civic organizations provide.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-507. Request for proposals from civic organizations -- Contract requirements.**

(1) (a) Before October 1, 1997, the director shall issue a request for proposals. Interested civic organizations may submit proposals for the purpose of contracting with the division for the provision of social capital.

(b) In cooperation with the coalition described in Section 35A-3-510, the department shall establish by rule:

- (i) specifications for proposals;
- (ii) deadlines for submissions;
- (iii) contents of proposals;
- (iv) the criteria upon which proposals will be accepted; and
- (v) the amount of available funding.

(2) Within appropriations from the Legislature the director may enter into one or more contracts with civic organizations, which shall at least include:

- (a) the funding, if any, to be provided to the civic organization by the division;
- (b) the geographical boundary within which the civic organization is to provide services and supports to individuals referred by the division;
- (c) a description of the services and supports to be provided by the civic organization to clients;

(d) the performance monitoring system to be used by the civic organization to evaluate the effects of the services and supports that it provides; and

- (e) other provisions as the division and civic organization consider appropriate.

(3) (a) A contract between the division and a civic organization under this section is for a defined period of time and a fixed funding amount.

(b) If a contract provides public funds, the civic organization will be required to comply with all applicable state and federal law with respect to those funds, which may include audit, recordkeeping, and financial accounting requirements.

(4) The services and supports provided by civic organizations under this section do not include eligibility determinations, cash assistance, food coupons, or quality assurance related to these functions.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-508. Inventory of civic organizations.**

(1) To enable the division to refer a client or applicant to an appropriate civic organization under this part, the division, in cooperation with the coalition described in Section 35A-3-510, shall complete a statewide inventory of civic organizations. For those organizations that wish to participate, the inventory shall include:

- (a) a description of the services and supports provided;

- (b) the geographical locations served;
  - (c) methods of accessing services; and
  - (d) eligibility for services.
- (2) The inventory shall be stored, updated annually, and made available in a usable form as a resource directory for all employment counselors.

Amended by Chapter 21, 1999 General Session

**35A-3-510. Coalition of civic and other organizations.**

The director shall convene a coalition of civic organizations, representatives of the division, representatives of state and local agencies, advocacy organizations, public officials, community leaders, members of the Legislature, and other persons and organizations as he determines. The coalition shall offer advice to the director on issues relevant to this part.

Renumbered and Amended by Chapter 174, 1997 General Session

**35A-3-601. Title.**

This part shall be known as the "Administrative Determination of Overpayments Act."

Renumbered and Amended by Chapter 90, 2003 General Session

**35A-3-602. Definitions.**

As used in this part:

- (1) "Adjudicative proceeding" means an action or proceeding of the department described in Section 63G-4-102.
- (2) "Administrative order" means an order issued by the department involving an overpayment of public assistance.
- (3) "Court order" means a judgment or order of any court of this state, another state, or the federal government that involves an overpayment of public assistance.
- (4) "Department" means the Department of Workforce Services.
- (5) "Notice of agency action" means the notice required to commence an adjudicative proceeding as described in Section 63G-4-201.
- (6) "Obligor" means an individual who is liable to the state under Section 35A-3-603 and applicable federal statutes and regulations, or an individual against whom an administrative or judicial order determining overpayment has been obtained.
- (7) (a) "Overpayment" means money, public assistance, or any other thing of value provided under a state or federally funded benefit program to the extent that the person receiving the thing of value is not entitled to receive it or is not entitled to receive it at the level provided.
- (b) It includes money paid to a provider under this title in connection with public assistance or any other publicly funded assistance program to the extent that the provider receives payment:
  - (i) for goods or services not provided; or
  - (ii) in excess of the amount to which the provider is entitled.

Amended by Chapter 382, 2008 General Session

**35A-3-603. Civil liability for overpayment.**

(1) As used in this section, "intentionally, knowingly, and recklessly" mean the same as those terms are defined in Section 76-2-103.

(2) Each provider, client, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs prior to receiving notice.

(3) (a) Except as provided under Subsection (3)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department, an overpayment may be recovered through deductions from cash assistance, general assistance, SNAP benefits, other cash-related assistance provided to a client under this chapter, or any other means provided by federal law.

(4) Each person who knowingly assists a client, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

(5) (a) In proving civil liability for overpayment under this section or Section 35A-3-605 when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly, by false statement, misrepresentation, impersonation, or other fraudulent means, such as by committing any of the acts or omissions described in Sections 76-8-1203 through 76-8-1205.

(b) If fault is established under Subsection (5)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, any person who obtained or helped another obtain an overpayment shall be subject to:

(i) a civil penalty of 10% of the amount of the overpayment; and

(ii) disqualification from receiving cash assistance from the Family Employment Program and the general assistance program, if the overpayment was obtained from either of those programs, for 12 months for the first offense, 24 months for the second offense, and permanently for the third offense, or as otherwise provided by federal law; or

(iii) disqualification from the SNAP, if that is the program from which the overpayment was received, for 12 months for the first offense, 24 months for the second offense, and permanently for the third offense, or as otherwise provided by federal law.

(6) If an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorneys' fees and costs unless the repayment obligation arose from an administrative error by the department.

(7) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment



being sought.

(8) Criminal actions for public assistance fraud are governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(9) Jurisdiction over benefits is continuous.

(10) This chapter does not preclude the Department of Health from carrying out its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20, Utah False Claims Act.

Amended by Chapter 41, 2012 General Session

**35A-3-604. Obligor presumed to have notice of department's rights -- Authority to administer oaths, issue subpoenas, and compel witnesses and production of documents -- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative procedures.**

(1) An obligor is presumed to have received notice of the rights of the department under this part upon engaging in this state in any of the acts described in Subsections 35A-3-603(4) and (5) or Section 76-8-1203, 76-8-1204, or 76-8-1205.

(2) For the purposes of this part, the department may administer oaths and certify official acts, issue subpoenas, and compel witnesses and the production of business records, documents, and evidence.

(3) (a) Except when an overpayment results from administrative error, the department may recover from the obligor:

- (i) reasonable attorneys' fees;
- (ii) costs incurred in pursuing administrative remedies under this part; and
- (iii) interest at the rate of 1% a month accruing from the date an administrative or judicial order is issued determining the amount due under this part.

(b) The department may recover interest, attorneys' fees, and costs, if notice of the assessment has been included in a notice of agency action issued in conformity with Title 63G, Chapter 4, Administrative Procedures Act.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make, amend, and enforce rules to carry out the provisions of this part.

(5) Service of all notices and orders under this part shall comply with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or rules made by the department that meet standards required by due process.

Amended by Chapter 382, 2008 General Session

**35A-3-605. Issuance or modification of administrative order -- Voluntary acknowledgment of overpayment -- Court orders supersede administrative orders -- Notification requirement.**

(1) As used in Subsection (2)(a)(i), "intentional program violation" means obtaining an "overpayment" as defined in Section 35A-3-602.

(2) (a) Through an adjudicative proceeding, the department may issue or modify an administrative order that:

- (i) determines whether an overpayment was made, the amount of the

overpayment, and whether benefits were obtained by an intentional program violation;

(ii) reduces the overpayment to an administrative judgment; or

(iii) renews an administrative judgment.

(b) The department shall commence an adjudicative proceeding to renew a judgment by serving notice of agency action on the obligor before the judgment is barred by the applicable statute of limitations.

(3) The department may accept voluntary acknowledgment of an overpayment obligation and enter into stipulated agreements to issue orders and judgments.

(4) (a) A provision of an administrative order is enforceable against an obligor, unless it is in direct conflict with or is superseded by a provision of a court order.

(b) To the extent of any conflict, the court order governs.

(5) After being properly served with a notice of agency action under this part, an obligor shall notify the department of any subsequent change of address or employment.

Renumbered and Amended by Chapter 90, 2003 General Session

**35A-3-606. Docketing abstract of final administrative order -- Real property and personal property liens -- Effect of order -- Execution.**

(1) (a) An abstract of a final administrative order may be docketed in the district court of any county in the state.

(b) The time of receipt of the abstract shall be noted by the clerk on the abstract and entered in the docket.

(2) From the time the abstract is docketed in the judgment docket of a district court, any administrative judgment included in the order abstracted constitutes a lien upon the real property of the obligor situated in that county for a period of eight years from the date the order is entered unless previously satisfied.

(3) The final administrative order fixing the liability of the obligor shall have the same effect as any other money judgment entered in a district court.

(4) Attachment, garnishment, or execution on a judgment included in or accruing under an administrative order filed and docketed under this section shall be in the same manner and with the same effect as an attachment, garnishment, or execution on a judgment of a district court, except that a writ of garnishment on earnings shall continue to operate and require the garnishee to withhold the nonexempt portion of the earnings at each succeeding earnings disbursement interval until released in writing by the department or by court order.

(5) The lien and enforcement remedies provided by this section are in addition to any other lien or remedy provided by law.

Renumbered and Amended by Chapter 90, 2003 General Session

**35A-3-607. Property subject to execution or lien -- Restriction on transfer or conveyance -- Release of excess amount above liability to obligor.**

(1) After receiving notice that an abstract has been docketed and a lien established under this part, a person in possession of any property which may be subject to execution or lien may not pay over, release, sell, transfer, encumber, or

convey that property to any person other than the department, unless the person in possession first receives a release or waiver from the department, or a court order releasing the lien or stating that the liability does not exist or has been satisfied.

(2) If a person has in his possession earnings, deposits, accounts, or balances owed to the obligor in excess of \$100 over the amount of the liability claimed by the department, that person may, without liability under this part, release the excess to the obligor.

Renumbered and Amended by Chapter 90, 2003 General Session

**35A-3-608. Schedule of payments to be paid upon liability -- Establishment -- Cancellation.**

(1) At any time, the department may:

(a) consistent with the income, earning capacity, and resources of the obligor, set or reset the level and schedule of payments to be paid upon the liability; and

(b) at any time, cancel the schedule of payments and demand immediate payment in full.

(2) The department may recover an overpayment through deductions from cash assistance or SNAP benefits under Section 35A-3-603.

Amended by Chapter 41, 2012 General Session

**35A-3-609. Statute of limitations -- Enforcement of lien or order.**

No action for the enforcement of an order or lien issued under this part may be maintained unless it is commenced within eight years after the date of the order.

Renumbered and Amended by Chapter 90, 2003 General Session

**35A-3-610. Legal representation at hearings.**

(1) A party may be represented by legal counsel at any hearing held under this part.

(2) At the request of the department it is the duty of the attorney general or the county attorney to represent the department in any proceeding commenced under this part.

Renumbered and Amended by Chapter 90, 2003 General Session